

E-filing

1 CRYSTAL ANN POOLE  
 2 P.O. Box 6913  
 3 San Pablo, CA 94806-6913  
 Petitioner, *Pro Se*

FILED  
 JUN 18 2010  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND

JRP  
 AP  
 EB

8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10  
 11 CRYSTAL ANN POOLE,  
 12 Petitioner/Plaintiff,  
 13 v.  
 14 CONNELL AUTO CENTER, and  
 EUROPEAN AUTO CENTER,  
 15 Defendants,  
 16 v.  
 17 UNITED STATES OF AMERICA,  
 INTERNAL REVENUE SERVICE, and  
 JENNIFER FONG, IRS SPECIAL  
 AGENT,  
 18 Respondents.

) CASE NO.  
 C10-02668

ADR

RS

PETITION AND COMPLAINT TO  
 QUASH IRS THIRD PARTY  
 SUMMONSES

21  
 22 COMES NOW Crystal Ann Poole, Petitioner/Plaintiff, *pro se*, and petitions this Court  
 23 to quash two Internal Revenue Service Third Party Administrative Summons.

24 JURISDICTION

25 1. This Court has jurisdiction pursuant to Title 26 U.S.C. § 7609 and Title 5 U.S.C.  
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 28

1 | § 552(a).<sup>1</sup>

2       2.     Venue is proper, because the custodian of records and records sought (the  
3 subject of this controversy) by the summonses to Connell Auto Center and European Auto  
4 Center, is within the district of the United States District Court for the Northern District of  
5 California. A third and additional Summons was issued to Wells Fargo Dealer Services<sup>2</sup> in  
6 Rancho Cucamonga and is related to the summonses issued to Connell Auto Center and  
7 European Auto Center. Petitioner contends that judicial economy and the convenience of the  
8 parties dictates that these summonses should be heard together. Petitioner will seek counsel  
9 to consider whether motion should be made to change the venue to The Northern District of  
10 California where Petitioner, Respondents, Defendants, and the majority of the Third Parties  
11 are all located.

## PARTIES

13       3.     The Petitioner/Plaintiff in this action is Crystal Ann Poole, (hereinafter  
14 "Poole"), whose address is P.O.Box 6913, San Pablo, CA 94806-6913.

15       4. The Respondents in this action are the United States of America, the Internal  
16 Revenue Service (hereinafter "IRS") and Jennifer Fong, IRS Special Agent (hereinafter  
17 "Fong").

18       5.     Fong is the IRS official that issued the alleged summonses which are the subject  
19 of this controversy. Fong's mailing address is 1301 Clay Street, Suite 1780-S, Oakland,  
20 California 94612.

**6. The Defendants and Third Parties from whom IRS seeks records are:**

a) Connell Auto Center (hereinafter "Connell") located at 2820

<sup>1</sup> All further references to Code Sections are to Title 26 unless otherwise noted.

<sup>2</sup> 28 U.S.C. Section 7609(h) states – “The United States district court for the district within which the person to be summoned resides or is found shall have jurisdiction to hear and determine any proceeding brought under subsection (b)(2), (f), or (g).” Thus, the Motion to Quash the IRS Summons in the case of Wells Fargo Dealer Services has been filed in the Central District of California.

1 Broadway, Oakland, California, 94611;

2 b) European Auto Center (hereinafter "European") located at 10269  
3 San Pablo, El Cerrito, California 94530.

4 7. The third party summonses which were issued to Connell and European on May  
5 27, 2010 will hereinafter collectively be referred to as the "Oakland Summonses." (See  
6 Exhibits "A" and "B" the IRS summonses issued to Connell and European, true and correct  
7 copies attached hereto.) On or about June 10, 2010, Connell and European complied with the  
8 IRS summonses, surrendering Petitioner's records to the IRS.

9 **CAUSES OF ACTION AGAINST RESPONDENTS**

10 For the Causes of Action against the Respondents, and each of them, Poole alleges as  
11 follows:

12 **I. First Cause of Action Against Respondents**

13 8. The Oakland Summonses are in violation of the statutory summons process and  
14 should be quashed because IRS failed to give Poole timely notices required by 26 U.S.C.,  
15 Section 7609(a)(1), *i.e.*, 23 days notice prior to the date set to turn over the records requested..  
16 As a consequence, Poole was not given the opportunity to timely file a Petition to Quash the  
17 Summons pursuant to Section 7609(b)(1).

18 **II. Second Cause of Action Against Respondents**

19 9. The IRS are in violation of the statutory summons process as they failed to  
20 provide Poole advance notice that contact with any of these third parties were to be made;  
21 and, failed to periodically provide Poole with a record of persons contacted by IRS about  
22 Poole as required by Section 7602(c)(1)&(2).

23 **III. Third Cause of Action Against Respondents**

24 10. Poole alleges upon information and belief that the Oakland Summonses were  
25 issued while a referral for criminal prosecution to the Department of Justice is pending, which  
26 was made by the IRS in violation of Section 7602(d)(2)(A).

27 **IV. Fourth Cause of Action Against Respondents**

28 11. Poole alleges that the IRS abused the summonses process as the Oakland

1 Summons are third party summonses the purpose of which is to summons third party record-  
2 keepers. (See IRM 25.5.1.5). Connell and European are not third party record-keepers  
3 pursuant to Section 7603(b)(2)(1). As such the use of Form 2039 summonses to summons  
4 Connell and European was an abuse of the summons process.

5 **V. Fifth Cause of Action Against Respondents**

6 12. Because of the violations and abuses of the summonses process as alleged  
7 within paragraphs 8 through 11, inclusive, the IRS failed to meet the "GOOD FAITH"  
8 requirement of the *Powell*<sup>3</sup> standard.

9 **CAUSES OF ACTION AGAINST DEFENDANTS**

10 For the Causes of Action against the Defendants, and each of them, Poole alleges as  
11 follows:

12 **I. First Cause of Action Against Defendants**

13 13. Connell and European voluntarily and contrary to law turned over Poole's records  
14 to the Respondents in violation of the Privacy Laws of the United States of America.

15 **II. Second Cause of Action Against Defendants**

16 14. Connell and European, voluntarily and contrary to law turned over Poole's records  
17 to the Respondents in violation of the Privacy Laws of the State of California and in violation  
18 of Poole's California Constitutionally protected rights under Article 1, Section 1, California  
19 Constitution.

20 **PRAYER FOR RELIEF**

21 Wherefore, Poole respectfully requests that this Court:

22 1. QUASH the third party administrative summonses of May 27, 2010, to Connell and  
23 European for the records pertaining to Crystal Ann Poole.

24 2. ORDER that the IRS turn over to Poole a copy of any and all summonses and request  
25 for documents that were issued to third parties that were issued by IRS to any Third Parties  
26 to obtain records.

27 \_\_\_\_\_  
28 <sup>3</sup> *United States v. Powell*, 379 U.S. 48, 85 S.Ct. 248 (1964).

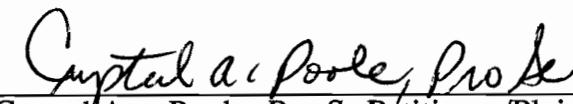
1 3. ORDER that the IRS turn over to Poole any and all records that were obtained, in its  
2 investigation of Poole by any means that were not in full compliance with the summonsing  
3 provisions of the Internal Revenue Code Section 7602, et seq. and Section 7609, et seq.

4 4. Declare that Connell and European are not third party record-keepers and therefore had  
5 no legal obligation to respond to the IRS" illegally issued Oakland Summons.

6 5. ORDER Respondent and Defendants to pay Poole \$1,000.00 for each violation of the  
7 State and Federal Privacy Laws.

8 6. Grant any and all other relief that the Court deem just and prudent, the foregoing  
9 considered.

10 Dated: 6/18/2010

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13 Crystal Ann Poole, Pro Se Petitioner/Plaintiff

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2                   **CERTIFICATE OF SERVICE**  
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4 I, Crystal Ann Poole, certify that pursuant to IRC §7609(b)(2)(B) true copies of the attached  
5 "PETITION AND COMPLAINT TO QUASH IRS THIRD PARTY SUMMONSES"  
6 have been served, on this \_\_\_\_<sup>th</sup> day of JUNE, 2010, via Certified Mail to each of the following  
7 parties:

8                   **Cert. Mail # 7009 3410 0000 6766 2863**  
9 Internal Revenue Service, Jennifer Fong, Special Agent  
1301 Clay Street, Suite 1780-S  
Oakland, CA 94612

10                  **Cert. Mail # 7009 3410 0000 6766 2870**  
11 Eric Holder, U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW, Washington, DC 20530-0001

12                  **Cert. Mail # 7009 3410 0000 6766 2887**  
13 Joseph P. Russoniello, US Attorney  
1301 Clay Street, Suite 340S  
Oakland, CA 94612

15                  **Cert. Mail # 7009 3410 0000 6766 2894**  
16 Connell Auto Center - Custodian of Records  
2820 Broadway  
17 Oakland, CA 94611

18                  **Cert. Mail # 7006 2150 0001 6838 3596**  
19 European Auto Center - Custodian of Records  
10269 San Pablo Ave.  
El Cerrito, CA 94530

21  
22  
23                    

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24                    Crystal Ann Poole, *pro se*  
P.O. Box 6913  
San Pablo, CA 94806-6913

25                  cc:  
Ronald V. Dellums Federal Building  
1301 Clay Street, Suite 400S  
26                    Oakland , CA 94612-5217  
27  
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# Summons

In the matter of CRYSTAL ANN POOLE - 745 61st STREET, OAKLAND CA 94609

Internal Revenue Service (Division): Criminal Investigation

Industry/Area (name or number): Oakland Field Office

Periods: January 1, 2005 - December 31, 2009

## The Commissioner of Internal Revenue

To: Custodian of Records - Connell Auto Center

At: 2820 Broadway, Oakland, California 94611

You are hereby summoned and required to appear before Special Agent Jennifer Fong or her designee an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

"SEE ATTACHMENT"

**Do not write in this space**

### Business address and telephone number of IRS officer before whom you are to appear:

1301 Clay Street Suite 1780-S, Oakland, CA 94612      Telephone: (510) 637-1088

### Place and time for appearance at 1301 Clay Street Suite 1780S, Oakland, CA 94612

(documents can be mailed in lieu of appearance)

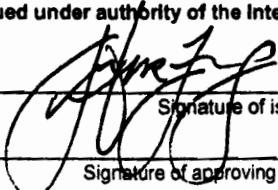
on the 10th day of June, 2010 at 10 o'clock a m.  
Issued under authority of the Internal Revenue Code this 27th day of May, 2010.



Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 12-2001)  
Catalog Number 21405J

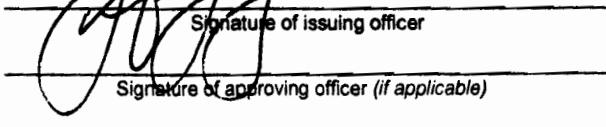
  
Signature of issuing officer

Special Agent

Title

N/A

Title

  
Signature of approving officer (if applicable)

Part C — to be given to noticee

Exhibit

A

Connell Auto Center  
Custodian of Records  
2820 Broadway  
Oakland, CA 94611

**ATTACHMENT**

Please provide any and all records relating to the purchase, sale or lease of the following vehicles to Crystal Ann Poole (SSN: 426-29-1330):

- 2005 Jeep Liberty, VIN # 1J4GL48K95W502037, CA License # 6KQA382
- Other vehicles purchased, sold or leased to the person named above

The records should include but are not limited to the following:

- 1) Sales contract for the above vehicle(s), including any documentation for any trade-ins.
- 2) Lease agreements for the above vehicle.
- 3) Copies of receipts of payments and down payments. Copies of any checks (front and back), cashier's checks, money orders, wires, and documentation of any cash payment. Any paperwork showing the source of funds used for the down payment.
- 4) Credit applications to obtain financing and all supporting documentation submitted including bank statements, W-2's, Federal income tax returns, financial statements, etc. Copies of any TRW or Experian credit histories.
- 5) Any additional amounts paid for options, services, or maintenance on the above named vehicles. Include copies of the vehicle maintenance reports.

**NOTE:**

**Contact Special Agent Jennifer Fong at (510) 637-1088 if you have any questions.**

**Send all information to:**

**IRS – Criminal Investigation  
Attn: Special Agent Jennifer Fong  
1301 Clay Street; Suite 1780-S  
Oakland, CA 94612**



# Summons

In the matter of CRYSTAL ANN POOLE - 745 61st STREET, OAKLAND CA 94609

Internal Revenue Service (Division): Criminal Investigation

Industry/Area (name or number): Oakland Field Office

Periods: January 1, 2005 - December 31, 2009

**The Commissioner of Internal Revenue**

To: Custodian of Records - European Auto Center

At: 10269 San Pablo Avenue, El Cerrito, California 94530

You are hereby summoned and required to appear before Special Agent Jennifer Fong or her designee an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

"SEE ATTACHMENT"

**Do not write in this space**

**Business address and telephone number of IRS officer before whom you are to appear:**

1301 Clay Street Suite 1780-S, Oakland, CA 94612      Telephone: (510) 637-1088

**Place and time for appearance at** 1301 Clay Street Suite 1780S, Oakland, CA 94612

(documents can be mailed in lieu of appearance)



Department of the Treasury  
Internal Revenue Service

[www.irs.gov](http://www.irs.gov)

Form 2039 (Rev. 12-2001)  
Catalog Number 21405J

on the 10th day of June 2010 at 10 o'clock a m.  
 Issued under authority of the Internal Revenue Code this 27th day of May, 2010.

Special Agent

Title

N/A

Title

Part C — to be given to noticee

**Exhibit B**

European Auto Center  
Custodian of Records  
10269 San Pablo Avenue  
El Cerrito, CA 94530

**ATTACHMENT**

Please provide any and all records relating to the purchase, sale or lease of the following vehicles to Crystal Ann Poole (SSN: 426-29-1330):

- 2002 Lexus SC430, VIN # JTHFN48Y620033079, CA License # 6AFC193
- Other vehicles purchased, sold or leased to the person named above

The records should include but are not limited to the following:

- 1) Sales contract for the above vehicle(s), including any documentation for any trade-ins.
- 2) Lease agreements for the above vehicle.
- 3) Copies of receipts of payments and down payments. Copies of any checks (front and back), cashier's checks, money orders, wires, and documentation of any cash payment. Any paperwork showing the source of funds used for the down payment.
- 4) Credit applications to obtain financing and all supporting documentation submitted including bank statements, W-2's, Federal income tax returns, financial statements, etc. Copies of any TRW or Experian credit histories.
- 5) Any additional amounts paid for options, services, or maintenance on the above named vehicles. Include copies of the vehicle maintenance reports.

**NOTE:**

**Contact Special Agent Jennifer Fong at (510) 637-1088 if you have any questions.**

**Send all information to:**

**Internal Revenue Service - CI  
Attn: Special Agent Jennifer Fong  
1301 Clay Street; Suite 1780-S  
Oakland, CA 94612**